

# CHANCE OF FREE MAY BE TAKEN TO THE HAGUE

Expected America Will Accept  
Germany's Proposition to  
Transfer Dispute to Board.  
LITTLE CHANCE OF BREACH

United States Still Insists It Is  
Illegal to Sink Contraband-  
Carrying Neutral Ships.

America probably will accept Ger-  
many's proposition that the Frye case  
be submitted, as a general test of the  
Prussian-American treaty of 1828, to  
The Hague.

High officials here said today that  
the controversy certainly was not of a  
kind to warrant a break between the  
two governments, but that a settle-  
ment was imperative. They expressed  
the opinion that it could best be reached  
by arbitration.

The question hinged on Germany's  
right to sink contraband-carrying  
American ships. Germany claims this  
right. America admits Germany's right  
to destroy the contraband, but not the  
ship containing it.

Expected to Accept.

Pending arbitration, it was expected  
America would accept Germany's offer  
to pay for the Frye, the amount of  
damages to be determined jointly by  
a German and an American expert, with  
the understanding that payment does  
not constitute a waiver either by Ger-  
many or America of their respective in-  
terpretations of the treaty.

The Leelanaw case, it was believed,  
would be similarly handled. Germany  
no action was looked for relative to  
the British note rejecting America's  
claim to freedom of the seas, until  
President Wilson's return to Washing-  
ton. With the country's big export  
interests clamoring for drastic action  
against the British, and a "Bryan peace  
policy" trying to keep the country out  
of a war, it was admitted this was a  
puzzling problem. Officials confessed they  
did not yet see their way to an answer.

An early note to the German govern-  
ment to France against the latter's seizure  
of the steamship Decia, a Hamburg-Ameri-  
can vessel, which was transferred to  
American registry after the war began.

Text of German Note.

The full text of the German reply to  
the Frye note follows:

Foreign Office,  
Berlin, July 30, 1915.  
The undersigned has the honor to  
inform the American Embassy, Mr. James W.  
Gerard, ambassador of the United  
States of America, in reply to the note  
of the 26th ultimo, of the receipt of  
No. 3990, on the subject of the sinking  
of the American merchant vessel, William P. Frye, by the German  
auxiliary cruiser, Prinz Eitel Friedrich, that the points of view  
brought out in the note have been  
carefully examined by the Imperial  
German government. This examination  
has led to the following conclu-  
sions:

The government of the United  
States believes that it is incumbent  
upon it to take the position that the  
treaty rights to which America is en-  
titled, as contained in article 12  
of the Prussian-American treaty of  
commerce of September 10, 1878, in article 13 of the Prus-  
sian-American treaty of amity and  
commerce of July 11, 1899, were  
violated by the sinking of the Wil-  
liam P. Frye. It interprets these  
articles as meaning that a mer-  
chantman of a neutral country carrying  
contraband cannot in any  
circumstances be destroyed by a  
warship of the belligerent contract-  
ing party, and that the cargo of the  
William P. Frye was, therefore, in  
violation of the treaty; even if  
her cargo should be considered as  
contraband, which it leaves outside  
of the discussion.

The German government cannot  
accept this view. It insists be-  
fore that the commander of the  
German auxiliary cruiser acted in  
the legal exercise of his right of  
control of trade in contraband en-  
joyed by warships of belligerent na-  
tions, and that the treaty stipula-  
tions mentioned merely obligate the  
German government to make com-  
pensation for the damage sustained  
by the American merchant vessel.

It is not disputed by the American  
Government that according to gen-  
eral principles of international law a  
belligerent is entitled to seize the  
neutral vessels under almost any  
conditions for carrying contraband.  
As is well known, these principles  
were laid down in articles 56 and 58  
of the Declaration of London, and  
were recognized at that time by the  
nations which signed the conference,  
including the American delegates,  
to be declarative of exist-  
ing international law (see prelimi-  
nary clause of the Declaration of  
London); moreover, at the beginning  
of the present war, the American  
Government proposed to the belliger-  
ent nations to ratify the Declara-  
tion of London and give its provi-  
sions formal validity also.

Destination Presumed.

The German government has al-  
ready explained in its note of April 4,  
last, for what reasons it considers  
that the conditions justifying the  
sinking under international law were  
present in the case of the William P.  
Frye. The cargo consisted of condi-  
tional contraband, the destination of  
which for the hostile and armed  
forces was to be presumed under the  
circumstances; no proof to overcome  
this presumption has been furnished.  
More than half the cargo of the ves-  
sel was contraband, so that the vessel  
was liable to confiscation. The  
attempt to bring the American ves-  
sel into a German port would have  
greatly imperiled the German vessel  
in the given situation of the war, and  
at any rate practically defeated the  
success of her further operations.  
Thus the authority for sinking the  
vessel was given according to general  
principles of international law.

There only remains then to be ex-  
amined the question how far the  
Prussian-American treaty stipula-  
tions modify these principles of in-  
ternational law.

In this connection Article 12, of the  
treaty of 1878 provides that in the  
event of a war between one of the  
contracting parties with another  
power the free commerce and inter-  
course of the nationals of the party  
remaining neutral with the belliger-  
ent powers shall not be interrupted,  
but that on the contrary the vessel

of the neutral party may navigate  
freely to and from the ports of the  
belligerent powers, even neutralizing  
enemy goods on board thereof. How-  
ever, this article merely formulates  
general rules for the freedom of  
maritime intercourse and leaves the  
question of contraband untouched;  
the specific stipulations on this point  
are contained in the following article,  
which is materially identical with  
Article 15 of the treaty of 1793 now  
in force.

A Reasonable Compromise.

The plain intention of Article 15 is  
to establish a reasonable compro-  
mise between the military interests  
of the belligerent contracting party  
and the commercial interests of the  
neutral party. On the one hand the  
belligerent party is to have the right  
to prevent the transportation of war  
supplies to his adversaries even  
when carried on vessels of the neutral  
party; on the other hand the com-  
merce and navigation of the neutral  
party is to be interfered with as  
little as possible. The measure is  
necessary for such prevention, and  
reasonable compensation is to be paid  
for any inconveniences of the belliger-  
ent party may nevertheless ensue from  
the proceeding of the belligerent  
party.

Article 15 recites the following  
means whereby the belligerent party  
can prevent the vessels of the neu-  
tral party from carrying war sup-  
plies to his adversary: The deten-  
tion of the ship and cargo for such  
length of time as the belligerent  
party may think necessary; the inter-  
diction of the ship and cargo from  
the taking over of the war stores for  
his own use, paying the full value of  
the same as ascertained at the place  
of destination. The right of sinking  
is not mentioned in the treaty; and  
is, therefore, neither expressly per-  
mitted nor expressly prohibited, so  
that on this point the party stipula-  
tions must be supplemented by the  
general rules of international law.  
From the meaning and spirit of the  
treaty it really appears out of the  
question that it was intended to ex-  
clude the belligerent party from the  
right to sink a vessel loaded with con-  
traband, for example a shipment of  
arms of ammunition of declared im-  
portance for the outcome of the war,  
to proceed unhindered to his enemy  
when circumstances forbid carrying  
the same to the destination into port.  
If the general rules of international  
law allow sinking of the vessel.

Exposed to Attack.

The remaining stipulations of  
article 15 must likewise be con-  
sidered in this light; they provide  
that the captain of a vessel stopped  
shall be allowed to proceed on his  
voyage if he delivers out the con-  
traband to the warship which stopped  
his vessel. For such delivering out  
compensation of course, be considered  
when the ensuing loss of time im-  
perils either the warship herself or  
the success of her other operations.  
In the case of the William P. Frye  
the German commander at first tried  
to have matters settled by the deliv-  
ery of contraband, but on account of  
himself of the impracticability of this  
attempt, in that it would expose his  
ship to attack by whatever superior  
force of enemy war vessels pursuing  
him, and was accordingly obliged to  
determine upon the sinking of the  
vessel. Thus it did not occur at this  
point the limits to which he was  
bound by article 15.

How far article 15 asserts itself  
here to the extent that it founds the  
obligation to compensate the Ameri-  
can citizens affected, and whether ac-  
cording to the general rules of in-  
ternational law the belligerent party  
does not need to grant compensa-  
tion for the loss of the vessel, since  
for, if by article 15, the mere exer-  
cise of right of highways makes the  
sinking of the vessel liable for com-  
pensation, this must apply a fortiori to  
the exercise of the right of sinking.

The question whether the German  
commander acted lawfully was prima-  
rily a subject for the consideration  
of the German prize courts, accord-  
ing to the stipulations of the Prus-  
sian-American treaty of commerce, in-  
ternational law as laid down, also, in  
article 1 of The Hague convention  
for the establishment of an interna-  
tional prize court, and in article 35  
of the Declaration of London. The  
German government consequently laid  
the case of William P. Frye be-  
fore the competent prize court at  
Hamburg, as was stated in its note  
of the 7th ultimo. This court found  
in its judgment of the 10th ultimo  
that the cargo of the American ves-  
sel William P. Frye was contraband,  
that the vessel could not be carried  
into port, and that the sinking was  
therefore justified. At the same time  
the court expressly recognized the  
validity of the stipulations of the  
Prussian-American treaty of com-  
merce, as far as American property  
makes the German empire liable for  
indemnity. The prize court was un-  
able to fix the indemnity itself, since  
it had no data before it, falling the  
receipt of the necessary details from  
the parties interested.

Would Fix Indemnity.

It will now be necessary to settle  
these points in a different way. The  
German government suggests as the  
simplest way the setting of the two  
governments designate an expert  
and that the two experts jointly fix  
the amount of indemnity for the  
sinking of the American vessel, which  
may have been sunk with her.  
The German government will  
not pay the amount of in-  
demnities thus ascertained, how-  
ever, reverting to what has been stated above, that  
this method of settling the dispute  
satisfies for the violation of  
American treaty rights, but a duty  
or policy of this government founded  
on the existing treaty stipulations.  
Should the American Government  
not agree to this manner of settling  
the matter, the German government  
is prepared to submit the differ-  
ence of opinion as being a question of  
interpretation of the existing  
treaty stipulations to the arbitral  
tribunal of the Hague, pursuant to article 35  
of the Declaration of London, for the  
peaceful settlement of international dis-  
putes.

The undersigned begs to suggest  
that the ambassador, bringing the  
above to the attention of his Gov-  
ernment and avails himself, etc.

VON JAGOW.

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# COAST IS RECOVERING FROM STORM LOSS

Besides Death Toll in Erie, Pa.,  
Nine Lives Are Lost in  
Greater New York.

NEW YORK, Aug. 5.—Under clearing  
skies, the Atlantic coast was beginning  
to right itself today from the effects of  
one of the worst storms in years.  
The damage in dollars probably will  
not be known accurately for a week, as  
the storm king laid a heavy hand on the  
outlying districts where transportation  
and communication facilities are slow.  
The loss is admittedly great.

At Erie, Pa., hardest hit of all, rescue  
parties were working feverishly today to  
clear the streets of wreckage that covered  
many bodies. Latest reports have  
twenty bodies recovered, and it is feared  
that an equal number still are covered  
in the debris. No estimate of the toll  
of injured has been attempted.

Nine lives were taken in Greater New  
York, and millions of dollars' worth of  
damage done. Most of the lives were  
lost in accidents directly attributable  
to the storm. Trees were uprooted,  
roofs blown off, and traffic everywhere  
delayed.

In New York harbor and along the  
Jersey coast for 100 miles an estimate  
of the damage is difficult. The fishing  
folk lost heavily. Boats were torn loose  
from their moorings, and either driven  
out to sea or smashed against the shore.  
Two schooners and several gulls went  
down.

There was a constant stream of sum-  
mer campers into New York today. On  
Long Island where summer tent colonies  
are numerous, little remained. The  
tents and ramshackle bungalows were  
chaff in the teeth of the sixty-mile gale  
that swept the district for hours.

Hundreds of rowboats and pleasure  
crafts were blown away and smashed.

Squads of Rescuers

Clear Away Erie Debris

In Hunt For Bodies

ERIE, Pa., Aug. 5.—While funeral ar-  
rangements were being made for the  
twenty victims of Erie's greatest catas-  
trophe, squads of rescuers were work-  
ing feverishly today to clear away the  
wreckage that choked the streets, and  
probably concealed many more bodies.  
Eighteen persons still are missing to-  
day, according to a revised list made  
by city officials.

The heavy property loss extends for  
twenty miles along the shore and will  
reach \$1,000,000.

State inspectors of the Pennsylvania  
health department came into Erie to-  
day to oversee the removal of debris  
and take sanitary measures.

The stench that arose from the pile  
of sickened many of the workers and led  
to orders that all who had been im-  
mersed in the wreckage should be treated  
to prevent typhoid fever.

Erie Declines Offer

Of Aid From Red Cross

The offer made by the Red Cross to  
aid the city of Erie in caring for the  
cloudburst sufferers has been de-  
clined. A telegram received at the  
headquarters today from E. P. Bidwell,  
national director, says:

"Mayor of Erie expresses thanks for  
offer of assistance but says city is able  
to meet situation fully."

Changes Are Announced

At Government Printery

A number of changes in the Govern-  
ment Printing Office, including appoint-  
ments, separations, and transfers, were  
announced today by Public Printer Ford.  
They are as follows:

Appointments—George M. Ramsey,

compositor, reinstatement; Patrick F.

Ganey, probationary messenger boy, re-  
instatement, and Charles F. Troger,

proofreader, reinstatement.

Separations—Mrs. Jennie A. Bost,

skilled laborer, and Theodore H. Chunn,

messenger boy.

Transfers—Aloysius F. Burns, from

helper, 35 cents an hour, plate vault sec-  
tion, to sheet metal worker, 50 cents an

hour, engineer's section; James H. Scott,

from skilled laborer, 25 cents an hour,  
campaign binding section, to elevator

conductor, 30 cents an hour, electrical  
section; Henry M. Day, from skilled

laborer, 25 cents an hour, ruling and  
sewing section, to watchman, \$2.00 per

annum, watch force section; John F.

Scott, from helper, 35 cents an hour, to  
stockkeeper, 40 cents an hour, stores di-  
vision; Edward A. Newman, from skilled

laborer, 25 cents an hour, to helper,  
35 cents an hour, stores division; J. An-  
thony Gallagher, from skilled laborer, 25

cents an hour, to helper, 30 cents an  
hour, stores division; Percy C. El-

mes, from messenger boy, office of super-  
intendent of documents, from \$2.00 to \$2.50

per annum, and William K. Hauser,  
messenger boy, office of the superin-  
tendent of documents, from \$2.75 to \$3.00

per annum.

Men's 50c and 75c quality cambric

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